

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

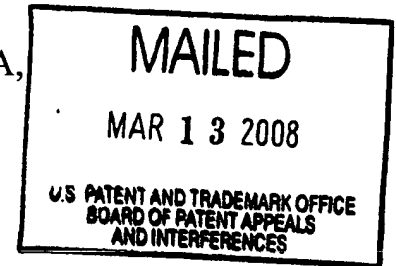
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Ex parte JAMES M. GILL, ANTONY A. AWAIDA,  
and IAN J. H. WILLIAMS

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Application No. 09/939,206

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on February 14, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

On November 16, 2006, the Examiner mailed a Non-Final Rejection. On page 1 of the rejection, item number 6 indicates that claims 46-83 are rejected. The rejection statement on page 3 of the Non-Final Action does not include claims 55-58 and 82-83. However, these claims are treated as rejected in the discussion on page 4 of the Non-Final Action. In the Appeal Brief filed March 14, 2007, Appellants concurs that claims 46-83 stand rejected (Br. 1). Like the Examiner, Appellants also refers to a rejection statement that excludes claims 55-58 and 82-83 (Br. 4) while discussing the claims as rejected (Br. 14-15). The Examiner's Answer mailed July 16, 2007, states that "[t]he statement of the

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status of claims contained in the brief is correct" (Ans. 2). However, the Examiner again fails to include claims 55-58, 82, and 83 in the rejection statement (Ans. 3) while discussing the claims as rejected (Ans. 4).

Accordingly, it is ORDERED that the application is returned to the Examiner for the following:

1) to vacate the Examiner's Answer mailed July 16, 2007, and issue a revised Examiner's Answer to include all claims and the grounds in which they are rejected under; and

2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCE

  
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